

9 VAC 25-260-30. Antidegradation policy.

A. All surface waters of the Commonwealth shall be provided one of the following three levels, or tiers, of antidegradation protection. This antidegradation policy shall be applied whenever any activity is proposed that has the potential to affect existing surface water quality.

1. As a minimum, existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.
2. Where the quality of the waters exceed water quality standards, that quality shall be maintained and protected unless the board finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the Commonwealth's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the board shall assure water quality adequate to protect existing uses fully. Further, the board shall assure that there shall be achieved the highest statutory and regulatory requirements applicable to all new or existing point source discharges of effluent and all cost-effective and reasonable best management practices for nonpoint source control.
3. Surface waters, or portions of these, which provide exceptional environmental settings and exceptional aquatic communities or exceptional recreational opportunities may be designated and protected as described in subdivisions 3 a, b and c of this subsection.
  - a. Designation procedures.

(1) Designations shall be adopted in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) and the board's public participation guidelines.

(2) Upon receiving a nomination of a waterway or segment of a waterway for designation as an exceptional state water pursuant to the board's antidegradation policy, as required by 40 CFR 131.12, the board shall notify each locality in which the waterway or segment lies and shall make a good faith effort to provide notice to impacted riparian property owners. The written notice shall include, at a minimum: (i) a description of the location of the waterway or segment; (ii) the procedures and criteria for designation as well as the impact of the designation; (iii) the name of the person making the nomination; and iv the name of a contact person at the Department of Environmental Quality who is knowledgeable about the nomination and the waterway or segment. Notice to property owners shall be based on names and addresses taken from local tax rolls. Such names and addresses shall be provided by the Commissioners of the Revenue or the tax assessor's office of the affected jurisdiction upon request by the board. After receipt of the notice of the nomination, localities shall be provided 60 days to comment on the consistency of the nomination with the locality's comprehensive plan. The comment period established by subdivision 3 a (2) of this subsection shall in no way impact a locality's ability to comment during any additional comment periods established by the board.

b. Implementation procedures.

(1) The quality of waters designated in subdivision 3 c of this subsection shall be maintained and protected to prevent permanent or long-term degradation or impairment.

(2) No new, additional, or increased discharge of sewage, industrial wastes or other pollution into waters designated in subdivision 3 c of this subsection shall be allowed.

(3) Activities causing temporary sources of pollution may be allowed in waters designated in subdivision 3 c of this subsection even if degradation may be expected to temporarily occur provided that after a minimal period of time the waters are returned or restored to conditions equal to or better than those existing just prior to the temporary source of pollution.

c. Surface waters designated under this subdivision are as follows:

(1) Little Stony Creek in Giles County from the first footbridge above the Cascades picnic area, upstream to the 3,300-foot elevation.

(2) Bottom Creek in Montgomery County and Roanoke County from Route 669 (Patterson Drive) downstream to the last property boundary of the Nature Conservancy on the southern side of the creek.

(3) Lake Drummond, located on U.S. Fish and Wildlife Service property, is nominated in its entirety within the cities of Chesapeake and Suffolk excluding any ditches and/or tributaries.

(4) North Creek in Botetourt County from the first bridge above the United States Forest Service North Creek Camping Area to its headwaters.

(5) Brown Mountain Creek, located on U.S. Forest Service land in Amherst County, from the City of Lynchburg property boundary upstream to the first crossing with the national forest property boundary.

(6) Laurel Fork, located on U.S. Forest Service land in Highland County, from the national forest property boundary below Route 642 downstream to the Virginia/West Virginia state line.

(7) North Fork of the Buffalo River, located on U.S. Forest Service land in Amherst County, from its confluence with Rocky Branch upstream to its headwaters.

(8) Pedlar River, located on U.S. Forest Service land in Amherst County, from where the river crosses FR 39 upstream to the first crossing with the national forest property boundary.

(9) Ramseys Draft, located on U.S. Forest Service land in Augusta County, from its headwaters (which includes Right and Left Prong Ramseys Draft) downstream to the Wilderness Area boundary.

(10) Whitetop Laurel Creek, located on U.S. Forest Service land in Washington County, from the national forest boundary immediately upstream from the second railroad trestle crossing the creek above Taylors Valley upstream to the confluence of Green Cove Creek.

(11) Ragged Island Creek in Isle of Wight County from its confluence with the James River at a line drawn across the creek mouth at N36°56.306'/W76°29.136' to N36°55.469'/W76°29.802' upstream to a line drawn across the main stem of the creek at

N36°57.094'/W76°30.473' to N36°57.113'/W76°30.434', excluding wetlands and impounded areas and including only those tributaries completely contained within the Ragged Island Creek Wildlife Management Area on the northeastern side of the creek.

(12) Big Run in Rockingham County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of Big Run within the confines of Shenandoah National Park.

(13) Doyles River in Albemarle County from its headwaters to the first crossing with the Shenandoah National Park boundary and Jones Falls Run from its headwaters to its confluence with Doyles River and all tributaries to these segments of Doyles River and Jones Fall Run within the confines of Shenandoah National Park.

(14) East Hawksbill Creek in Page County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of East Hawksbill Creek within the confines of Shenandoah National Park.

(15) Jeremys Run in Page County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of Jeremys Run within the confines of Shenandoah National Park.

(16) East Branch Naked Creek in Page County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of East Branch Naked Creek within the confines of Shenandoah National Park.

(17) Piney River in Rappahannock County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of the Piney River within the confines of Shenandoah National Park.

(18) North Fork Thornton River in Rappahannock County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of the North Fork Thornton River within the confines of Shenandoah National Park.

(19) (Reserved)

(20) (Reserved)

(21) (Reserved)

(22) (Reserved)

(23) Roberts Creek from its confluence with the Pedlar River upstream to its first crossing with the National Forest boundary.

(24) Shady Mountain Creek from its headwaters downstream to its confluence with the Pedlar River.

(25) Cove Creek from its headwaters downstream to the National Forest boundary.

(26) Little Cove Creek and its tributaries from the headwaters downstream to the National Forest boundary.

(27) Rocky Branch from its headwaters downstream to its confluence with the North Fork of the Buffalo River.

(28) North Fork of the Buffalo River from its confluence with Rocky Branch downstream to the National Forest Boundary.

- B. Any determinations concerning thermal discharge limitations made under §316(a) of the Clean Water Act will be considered to be in compliance with the antidegradation policy.

